GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – Commercial Tax Department APGST Act, 1957 – refund claim of M/s Esssar Projects Limited – Assessee on the rolls of the Commercial Tax Officer, Kurupam Market Circle, Viskhapatnam Division, for an amount of Rs.96,14,390/- for the year 1994-95 and Rs.21,84,489/- for the year 1995-96 along with interest – Delay in granting refund to the dealer – Direction of the Hon'ble High Court of Andhra Pradesh to give interest of Rs.52,57,450/- for the delayed period – loss of Government money – Sri K.V.Srikanth, the then Deputy Commercial Tax Officer (FAC), Kururpam Market circle, Visakhapatnam is responsible for the delay and consequent loss to the State Exchequer –Disciplinary Action initiated under rule 20 read with rules 24 of Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991 – Article of Charges – Issued.

REVENUE(VIGILANCE-II) DEPARTMENT

G.O.Rt.No.930 **Dated:30-08-2016.**
Read the following:-

1) From Commissioner Commercial Taxes, CCT's.No.V1/866/13, dated:12.07.2016
2) From Commissioner Commercial Taxes, CCT's No.V1/886/13, dated: 12.07.2016.
3) G.O.Rt.No.925, Rev(Vig.II) Dept, Dated.30.08.2016.

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ORDER:

It is proposed to hold an Inquiry against Sri K.V.Srikanth, the then Deputy Commercial Tax Officer (FAC), Kururpam Market circle, Visakhapatnam, presently working as Commercial Tax Officer, O/o the Commissioner of Commercial Taxes, Andhra Pradesh in accordance with the procedure laid down in Rule-20 of the Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991.

2) The substance of the imputations of misconduct/misbehaviour in respect of which the inquiry is proposed to be held is set out in the enclosed as Annexure-I. A statement of imputations of misbehaviour in support of the article is also enclosed as Annexure-II. A list of documents by which the articles of charges are proposed to be sustained is also enclosed in Annexure-III.

3) Sri K.V.Srikanth, the then Deputy Commercial Tax Officer (FAC), Kururpam Market circle, Visakhapatnam, presently working as Commercial Tax Officer, O/o the Commissioner of Commercial Taxes, Andhra Pradesh is directed to submit his explanation within fifteen (15) days from the date of receipt of this order i.e., written statement of his defence and to state whether he desires to be heard in person.

4) Sri K.V.Srikanth, the then Deputy Commercial Tax Officer (FAC), Kururpam Market circle, Visakhapatnam, presently working as Commercial Tax Officer, O/o the Commissioner of Commercial Taxes, Andhra Pradesh is informed that an inquiry will be held only in respect of those articles of charges which are not admitted, he should therefore specifically admit or deny each article of charge.

5) Sri K.V.Srikanth, the then Deputy Commercial Tax Officer (FAC), Kururpam Market circle, Visakhapatnam, presently working as Commercial

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Tax Officer, O/o the Commissioner of Commercial Taxes, Andhra Pradesh, is further informed that if he does not submit his written statement of defense on or before the time specified in para-3 above, further action will be initiated based on the material available.

6) Attention of Sri K.V.Srikanth, the then Deputy Commercial Tax Officer (FAC), Kururpam Market circle, Visakhapatnam, presently working as Commercial Tax Officer, O/o the Commissioner of Commercial Taxes, Andhra Pradesh, is invited to Rule-24 of Andhra Pradesh Civil Services (Conduct) Rules, 1964 under which no Government Servant shall bring or attempt, to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings it will be presumed that Sri K.V.Srikanth, the then Deputy Commercial Tax Officer (FAC), Kururpam Market circle, Visakhapatnam, presently working as Commercial Tax Officer, O/o the Commissioner of Commercial Taxes, Andhra Pradesh, is aware of such representation and that it has been made at his instance and action will be taken against him for violation of Rule-24 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964.

7) The receipt of the order, may be acknowledged.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

AJEYA KALLAM
SPECIAL CHIEF SECRETARY TO GOVERNEMNT

To
Sri K.V.Srikanth, the then Deputy Commercial Tax Officer (FAC), Kururpam Market circle, Visakhapatnam, presently working as Commercial Tax Officer, O/o the Commissioner of Commercial Taxes, Andhra Pradesh, Vijayawada.(Through Commissioner of Commercial Taxes, Andhra Pradesh, Vijayawada).

Copy to:

The Commissioner Commercial Taxes,
Andhra Pradesh, Vijayawada.
The Deputy Commissioner (Commercial Tax),
Visakhapatnam Division.
SC/SF

//FORWARDED :: BY ORDER//

SECTION OFFICER

ANNEXURE-I

STATEMENT OF ARTICLES OF CHARGE FRAMED AGAINST SRI K.V.SRIKANTH, THE THEN DCTO(FAC), KURURPAM MARKET CIRCLE, VISAKHAPATNAM, PRESENTLY WORKING AS CTO, O/O THE COMMISSIONER OF COMMERCIAL TAXES, ANDHRA PRADESH,

ARTICLE OF CHARGE:

That Sri K.V.Srikanth, the then Deputy Commercial Tax Officer (FAC), Kurupam Market circle, Visakhapatnam, presently working as Commercial Tax Officer, O/o the Commissioner of Commercial Taxes, Andhra Pradesh while working as Deputy Commercial Tax Officer (FAC), thus exhibited gross negligence of duty and exhibited slack supervision, due to delay in Refund to a tune of Rs.96,14,390/- for the year 1994-95 and Rs.21,84,489/- for the year 1995-96 and not acting promptly in time, leading to the payment of interest to an extent of Rs.52,57,450/- to the dealer M/s Essar Projects Limited and caused loss of revenue to the Government Exchequer.

Thus, Sri K.V.Srikanth, the then Deputy Commercial Tax Officer (FAC), Kururpam Market circle, Visakhapatnam, presently working as Commercial Tax Officer, O/o the Commissioner of Commercial Taxes, Andhra Pradesh by the above mentioned acts, exhibited lack of integrity, devotion to duty, and conduct unbecoming of a Government Servant in violation to the provisions under rule 3 of Andhra Pradesh Civil Services (conduct) Rules, 1964.

AJEYA KALLAM
SPECIAL CHIEF SECRETARY TO GOVERNEMNT

//FORWARDED :: BY ORDER//

SECTION OFFICER

ANNEXURE-II

STATEMENT OF IMPUTATIONS OF MISCONDUCT AND MISBEHAVIOUR IN SUPPORT OF THE ARTICLES OF CHARGES FRAMED AGAINST SRI K.V.SRIKANTH, THE THEN DCTO(FAC), KURURPAM MARKET CIRCLE, VISAKHAPATNAM, PRESENTLY WORKING AS CTO, O/O THE COMMISSIONER OF COMMERCIAL TAXES, ANDHRA PRADESH.

The Sri K.V.Srikanth, the then Deputy Commercial Tax Officer (FAC), Kururpam Market circle, Visakhapatnam, presently working as Commercial Tax Officer, O/o the Commissioner of Commercial Taxes, Andhra Pradesh is informed that certain irregularities are committed relating to refund of tax under APGST Act, 1957 for the year 1994-95 and 1995-96 in respect of M/s Essar Projects Limited, Visakhapatnam, who was an assessee on the rolls of Commercial Tax Officer, Kurupam Market Circle. Vide proceedings of Commercial Tax Officer, Kurupam Market circle in assessment No.1007/1994-95, dated: 18.03.1998 and assessment No.1007/1995-96, dt:18.07.1998 the dealers were assessed under the provisions of APGST Act to total tax of Rs.4,46,07,927/- for the year 1994-95 and Rs.1,48,52,626/- for the year 1995-96. Aggrieved by the said assessments, the dealer went on 1st appeal which was dismissed by Appellate Deputy Commissioner, Kakinada vide orders in VSP/34-98-99, dated: 28.10.1998. Subsequently, the dealer preferred 2nd appeal before Sales Tax Appellate Tribunal, Visakhapatnam aggrieved by the dismissal orders and the Hon'ble Sales Tax Appellate Tribunal, Visakhapatnam in T.A.No.207 of 1999, dated:15.02.2008 and in T.A.No.208 of 1999, dt:15.02.2009 has partly allowed and partly dismissed the said appeals. While giving effect to the orders of Sales Tax Appellate Tribunal, the Commercial Tax Officer, Kurupam Market circle passed the orders on 12.09.2008 granting refund of Rs.96,14,390/- for the year 1994-95 and refund of Rs.21,84,489-00 for the year 1995-96. As such, the dealers filed application for refund in the prescribed format on 10.12.2008. But the refund was not given, since Tax Revision Case against the orders of the Sales Tax Appellate Tribunal was said to have been filed. The dealers filed Writ Petition No.5432/2013 and Writ Petition No.5400/2013 before the Hon'ble High Court of refund of the said tax amount along with interest @ 12% per annum from 11.06.2009 till the date of payment. The Hon'ble High Court vide its orders in W.P.No.5432 of 2013, dated:25.02.2013 ordered the refund of the amount due together with interest as mandated under Section 33-F of the APGST Act, 1957 with in a period of two weeks from the date of receipt of the order.

In view of the above facts and circumstances of the case, it is found that necessary action was not taken in-time in respect of refund to the dealer by the then Commercial Tax Officers of Kurupam Market circle who worked from the period from 30-07-2009 to 25-02-2013 (till High Court Order). Therefore, due to the delay in issue of refund to a tune of Rs.96,14,390 for the year 1994-95, interest was paid to the dealer to an extend of Rs.42,84,065/- vide refund voucher bearing.No.0035048, dt:19.03.2013 as per the Hon'ble High Court direction.

Similarly for the year 1995-96, the refund amount of Rs.21,84,489/- along with interest of Rs.9,73,385/- was credited to dealer account vide refund voucher No.0035049, dated: 19.03.2013.

Contd., 2

Therefore for the two years i.e., 1991-95 and 1995-96 interest amount of Rs.42,84,065/- and Rs.9,73,385/- respectively was paid which amounts to a total of Rs.52,57,450/-. Due to the delay in Refund, and not acting promptly in time, there is a loss to the Government exchequer to an extent of Rs.52, 57, 450/- which is the interest paid to the dealer as per the Hon'ble High Court Judgment.

Thus, Sri K.V.Srikanth Commercial Tax Officer, O/o the Commissioner of Commercial Taxes, Andhra Pradesh by his above-mentioned acts has exhibited lack of integrity, devotion to duty and conduct unbecoming of a Government servant and thereby contrived Rule 3 of Andhra Pradesh Civil Services (Conduct) Rules, 1964.

AJEYA KALLAM
SPECIAL CHIEF SECRETARY TO GOVERNEMNT

//FORWARDED :: BY ORDER//

SECTION OFFICER

ANNEXURE-III

LIST OF RECORDS IN SUPPORT OF ARTICLES OF CHARGE FRAMED AGAINST SRI K.V.SRIKANTH, THE THEN DCTO(FAC), KURURPAM MARKET CIRCLE, VISAKHAPATNAM, PRESENTLY WORKING AS COMMERCIAL TAX OFFICER, O/O THE COMMISSIONER OF COMMERCIAL TAXES, ANDHRA PRADESH.

1) Commercial Tax Officer Kurupam Market Circle Proceedings in Rc.No.12/2013/SA-III, dated: 28.02.2013.
2) Deputy Commissioner, Visakhapatnam, Lr.No.141/2013-A8, dated:02.03.2013.
3) Deputy Commissioner, Visakhapatnam, Lr.No.142/2013-A8, dated:02.03.2013.
4) Commercial Tax Officer, Kurupam Market Circle Proceedings in Rc.No.12/2013 SA-III, dated: 19-03-2013.
5) Note submitted by Joint Commissioner (Commercial Tax), DMU & Minor Acts.

AJEYA KALLAM
SPECIAL CHIEF SECRETARY TO GOVERNEMNT

//FORWARDED :: BY ORDER//

SECTION OFFICER